

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMES HARRY HODSON, III,
Petitioner

V.

MARILYN BROOKS,
Respondent.

C.A. No. 05-92 Erie

District Judge McLaughlin
Magistrate Judge Baxter

ORDER

Petitioner has filed a Motion for Discovery [Document # 25], in which he is requesting an Order requiring the District Attorney of Crawford County to furnish this Court with all state court records regarding Petitioner's "transcribed Sentencing Hearing." By previous Order dated November 16, 2005, this Court ordered the District Attorney to produce all other state court records that may have been omitted from the original records submitted in this case, including a transcribed tape recording of Petitioner's police interview. [Document # 20]. The District Attorney responded to this Court's previous Order by filing a copy of the transcribed tape interview, but no other state court records were produced. [Document # 21]. After reviewing all state court records that have been filed in this case, this Court notes that the records do not contain a transcription of Petitioner's state court sentencing hearing that was conducted on July 26, 2000, which is the subject of Petitioner's pending motion.

AND NOW, this 7th day of March, 2006;

Based on the foregoing, IT IS HEREBY ORDERED that Petitioner's Motion for Discovery [Document # 25] is GRANTED and the District Attorney of Crawford County shall file with this Court a transcript of the sentencing hearing that was held before the state court on July 26, 2000. If, for any reason, a transcript of the sentencing hearing does not exist or is not available, the District Attorney shall file a written response providing an explanation regarding the absence of this transcript from the state court records.

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this date to appeal this order to a district judge pursuant to Local Rule 72.1.3 B. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

S/Susan Paradise Baxter

SUSAN PARADISE BAXTER

Chief U.S. Magistrate Judge